



Docket No.: NEL-0018/NP  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
R. Elaine Fulton et al.

Application No.: 10/784,305

Confirmation No.: 1520

Filed: February 24, 2004

Art Unit: 1648

For: GENETIC ENGINEERING OF  
STREPTAVIDIN-BINDING PEPTIDE  
TAGGED SINGLE-CHAIN VARIABLE  
FRAGMENT ANTIBODY TO VENEZUELAN  
EQUINE ENCEPHALITIS VIRUS

Examiner: S. B. Chen

**DEPOSIT DECLARATION**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Her Majesty the Queen in Right of Canada, as represented by the Minister of National Defence, Government of Canada, Assignee of record of the above-identified application, by its undersigned duly authorized representative, hereby declares:

That strains of A116 and mA116 scFv antibodies, i.e. A116-6, mA116-4, mA116-6, mA116-14, mA116-15, and mA116-16, have been deposited at the International Depositary Authority of Canada, Bureau of Microbiology, Health Canada, at 1015 Arlington Street, Winnipeg, Manitoba, Canada R3E 3R2 on November 26, 2003, under the Budapest Treaty, and was assigned Accession Nos. 191103-01, 191103-02, 191103-03, 191103-04, 191103-05, and 191103-06, respectively.

That the depositary affords permanence of the deposit and ready accessibility thereto by the public if a patent is granted;

That access to the deposit during the pendency of the above-identified application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. 1.14 and 35

U.S.C. 122 is hereby assured;

That all restrictions on the availability of the deposit to the public will be irrevocably removed upon the granting of the U.S. Patent on the above-identified application;

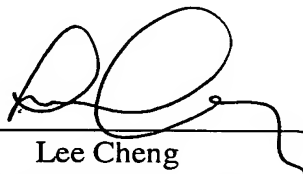
That each deposit shall be stored by the depository, with all the care necessary to keep it viable and uncontaminated, for a period of at least five years after the most recent request for the furnishing of a sample of the deposit was received by the depository, or for a period of at least 30 years after the date of the deposit, or for the effective life of the U.S. Patent, whichever is longest; and

That the Assignee acknowledges its duty to replace any such deposit should the depository be unable to furnish a sample when requested due to the condition of the deposit.

That the undersigned is authorized to execute this agreement on behalf of the Assignee.

The undersigned declares further that all statements made herein of his own knowledge are true, and that all statements on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: October 6, 2005

  
\_\_\_\_\_  
Lee Cheng  
Registration No.: 40,949  
Attorney for Applicants

**International Depositary Authority of Canada**  
**Bureau of Microbiology, Health Canada**  
1015 Arlington Street  
Winnipeg, Manitoba Canada R3E 3R2

Tel: (204) 789-2070  
Fax: (204) 789-2097

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**Form IDAC/BP/1**

**STATEMENT IN THE CASE OF AN ORIGINAL DEPOSIT**

(in compliance with the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure*)

*The undersigned hereby deposits under the Budapest Treaty the microorganism identified hereunder and undertakes not to withdraw the deposit for the period specified in Rule 9. 1 of the Treaty (30 years from date of deposit). The undersigned further certifies that if a strain should deteriorate during the period of time so specified, due to causes other than negligence of IDAC staff, that it is depositor's responsibility to replace it with a living culture of the identical organisms or cell. For deposits of viruses, cell cultures and plasmids, it is the depositor's responsibility to supply a sufficient quantity for distribution during the period of time specified above. The depositor understands that if the deposit is accepted by IDAC, that this form will be contractually binding on both parties.*

Type Or Print Neatly in Duplicate. Attach A Separate Page If More Space is Required.

**IDENTIFICATION OF DEPOSIT**

Name of Deposit: Single chain Fragment variable (scFv) constructs in *E. coli*

Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

A116-6                      *E.coli* TG-1                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin;  
sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes                                      No ☒ X

If yes, provide a complete list of all components of the mixture: N/A

If the deposit is a mixture, provide at least one method of verification of the presence of all components: N/A

#### **TREATMENT OF THE DEPOSIT**

Conditions required for storage of the deposit:  
-70°C

Conditions required for cultivation of the deposit:  
LB broth containing 100 ug/mL ampicillin; incubate 37°C in shaker incubator @ 225 rpm, overnight

Conditions required for viability testing of deposit:  
Spread an aliquot onto agar plates containing 100 ug.mL ampicillin

Is the depositor aware of any properties of the deposit that are, or may be, hazardous to health or the environment?

Yes                      No ☒ X

If yes, list any such properties of the deposit: N/A

Proposed scientific description or taxonomic designation of the deposit (optional): N/A

Further information about the deposit is attached (eg. Source, other institutions with samples:)

Yes                      No ☒ X

#### **DEPOSITOR/NOTIFICATION INFORMATION**

Name of Depositor:  
Mr Clement Laforce  
Deputy Director General  
DRDC Suffield  
Box 4000, Station Main  
Medicine Hat, AB T1A 8K6

Individual to whom official notification should be sent (if different than depositor):

Name: R. Elaine Fulton

Address: DRDC Suffield, Box 4000, Station Main, Medicine Hat, AB T1A 8K6

Will a patent agent be responsible for all communications with the IDAC?

Yes ☒ X                      No

If yes, name and address of patent agent:

Mr Wing T. Yan  
Nelligan O'Brien Payne LLP  
Suite 1900  
66 Slater St.  
Ottawa, ON K1P 5H1

Statement in the Case of an Original Deposit

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Should IDAC send copies of the original receipt of deposit and viability statement to the patent agent?

Yes ☒ No ☐

The undersigned requests official notification of all requests for samples of the deposit:

Yes ☒ No ☐


In addition to those entitled to receive samples under the *Budapest Treaty*, the sample should be made available to: N/A

Deposited on behalf of:

DRDC Suffield, Ralston, Alberta, Canada

Signature of Depositor:

Date: 26 Nov 03

 DBG

*The depositor knows and will observe all of the provisions of the Budapest Treaty, in particular a) the provisions of all information required by IDAC, b) payment of all necessary fees, c) authorization for IDAC to furnish samples according to applicable patent requirements. The depositor will compensate IDAC for any damage it may sustain as a consequence of handling the deposit under the conditions specified above, and indemnify IDAC against any action incurred as a result of the release of samples, unless such action is a result of negligence on the part of IDAC staff. Any dispute shall be governed by Canadian law.*

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**IDENTIFICATION OF DEPOSIT**

Name of Deposit: Single chain Fragment variable (scFv) constructs in *E. coli*

Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

MA116-4                      *E.coli* TOP 10                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin; sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes

No ☒ X

If yes, provide a complete list of all components of the mixture: N/A

If the deposit is a mixture, provide at least one method of verification of the presence of all components: N/A

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Conditions required for viability testing of deposit:  
Spread an aliquot onto agar plates containing 100 ug/mL ampicillin

Is the depositor aware of any properties of the deposit that are, or may be, hazardous to health or the environment?  
Yes                      No ☒ X

If yes, list any such properties of the deposit: N/A

Proposed scientific description or taxonomic designation of the deposit (optional): N/A

Further information about the deposit is attached (eg. Source, other institutions with samples):  
Yes                      No ☒ X

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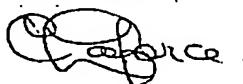
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**IDENTIFICATION OF DEPOSIT**

Name of Deposit: Single chain Fragment variable (scFv) constructs in *E. coli*

Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

MA116-6                      *E.coli* TOP 10                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin; sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes

No ☒

If yes, provide a complete list of all components of the mixture: N/A

If the deposit is a mixture, provide at least one method of verification of the presence of all components: N/A

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Is the depositor aware of any properties of the deposit that are, or may be, hazardous to health or the environment?

Yes                      No ☒

If yes, list any such properties of the deposit: N/A

Proposed scientific description or taxonomic designation of the deposit (optional): N/A

Further information about the deposit is attached (eg. Source, other institutions with samples:)

Yes                      No ☒

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Yes ☒              No

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Yes ☒ No

The undersigned requests official notification of all requests for samples of the deposit:

Yes ☒ No

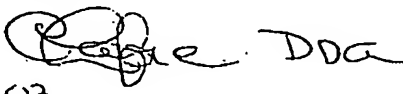
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Date:

  
26 Nov 03

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### **IDENTIFICATION OF DEPOSIT**

Name of Deposit: Single chain Fragment variable (scFv) constructs in *E. coli*

Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

MA116-14                      *E.coli* TOP 10                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin;  
sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes

No **X**

If yes, provide a complete list of all components of the mixture: N/A

If the deposit is a mixture, provide at least one method of verification of the presence of all components: N/A

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Yes                      No ☒ X

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Proposed scientific description or taxonomic designation of the deposit (optional): N/A

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Yes                      No ☒ X

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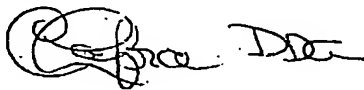
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Signature of Depositor:

Date: 26 Nov 07



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**IDENTIFICATION OF DEPOSIT**

Name of Deposit: Single chain Fragment variable (scFv) constructs in *E. coli*

Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

MA116-15                      *E.coli* HB2151                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin; sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes

No ☒ X

If yes, provide a complete list of all components of the mixture: N/A

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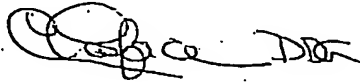
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Strain designation (numbers, symbols etc):

ScFv recombinants to VEE:

MA116-16                      *E.coli* TOP 10                      10 vials

Details of Culture:

Overnight cultures grown from single colonies in LB broth with 100 ug/mL ampicillin; sterile glycerol added and aliquots frozen -70°C.

Is this a mixture of microorganisms or cells?

Yes

No ☒

If yes, provide a complete list of all components of the mixture: N/A

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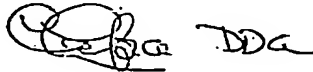
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Deposited on behalf of:

DRDC Suffield, Ralston, Alberta, Canada

Signature of Depositor:

Date: 26 Nov 03



*The depositor knows and will observe all of the provisions of the Budapest Treaty, in particular a) the provisions of all information required by IDAC, b) payment of all necessary fees, c) authorization for IDAC to furnish samples according to applicable patent requirements. The depositor will compensate IDAC for any damage it may sustain as a consequence of handling the deposit under the conditions specified above, and indemnify IDAC against any action incurred as a result of the release of samples, unless such action is a result of negligence on the part of IDAC staff. Any dispute shall be governed by Canadian law.*